

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **June 13, 2006**

AGENDA ITEM NO.: 10

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **\$10,500,000 Loan from the Virginia Revolving Loan Fund**

RECOMMENDATION: Conduct the required public hearing pursuant to Section 15.1-227.8(a) of the Code of Virginia for the issuance of \$10,500,000 of Sewer Revenue Bonds. Adopt a resolution authorizing the issuance of not to exceed \$10,500,000 Sewer Revenue Bonds.

SUMMARY: As part of the City's continuing program of combined sewer overflow (CSO) correction, applications are submitted in July of each year to the State Water Control Board for funding from the Virginia Revolving Loan Fund (VRLF). At its December 2005 meeting, the State Water Control Board authorized a \$9,600,000 VRLF zero percent (0%) interest loan. The two CSO separation projects included this loan are: (a) 8.1-A in the area of Clayton Avenue/Parkland Drive/Woodcrest Drive; (b) 8.1-B in the area of Peakland Place/Hilton Place. Also, the James River Interceptor Division 1-2 project is included in this loan.

In order to accept the VRLF loan, the City is required to follow the requirements of the Public Finance Act of the Commonwealth of Virginia. This Act requires localities issuing long-term debt to conduct a public hearing and adopt a bond resolution to issue the debt so advertised.

PRIOR ACTION(S): Adoption of the FY 2006-2010 Capital Improvements Program including receipt of a \$10,500,000 Virginia Revolving Loan for Combined Sewer Overflow correction projects.

FISCAL IMPACT: Issuance of up to \$10,500,000 Sewer Revenue bonds secured by a pledge of the revenues from the sewer system as collateral for the loan.

CONTACT(S): Donna Witt 455-3968

ATTACHMENT(S): Resolution attached

REVIEWED BY: bms

**A RESOLUTION OF THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED TEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$10,500,000) PRINCIPAL AMOUNT OF REVENUE OBLIGATIONS OF THE CITY OF LYNCHBURG, VIRGINIA, IN THE FORM OF SEWER REVENUE BONDS OF THE CITY OF LYNCHBURG, VIRGINIA, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF CAPITAL IMPROVEMENTS TO THE SEWER SYSTEM OF THE CITY, A REVENUE-PRODUCING UNDERTAKING OF THE CITY, SUCH CAPITAL IMPROVEMENTS CONSTITUTING WASTEWATER TREATMENT FACILITIES WITHIN THE MEANING OF TITLE 62.1, CHAPTER 22, SECTION 62.1-224, OF THE CODE OF VIRGINIA, 1950; FIXING THE FORM, DENOMINATION AND CERTAIN OTHER DETAILS OF SUCH BONDS; PROVIDING FOR THE ISSUANCE OF SUCH BONDS TO THE VIRGINIA RESOURCES AUTHORITY (“VRA”), AS ADMINISTRATOR OF THE VIRGINIA WATER FACILITIES REVOLVING FUND, TO EVIDENCE THE BORROWING TO BE MADE BY SUCH CITY FROM VRA PURSUANT TO A FINANCING AGREEMENT BY AND BETWEEN VRA AND SUCH CITY; APPROVING THE FORM AND THE TERMS, CONDITIONS AND PROVISIONS OF SUCH FINANCING AGREEMENT AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY THEREOF; AND APPOINTING THE DIRECTOR OF FINANCIAL SERVICES OR THE INTERIM DIRECTOR OF FINANCIAL SERVICES AS REGISTRAR AND PAYING AGENT FOR SUCH BONDS**

WHEREAS, in the judgment of the Council (the “Council”) of the City of Lynchburg, Virginia (the “City”), it is desirable to authorize the issuance of not to exceed Ten Million Five Hundred Thousand Dollars (\$10,500,000) principal amount of revenue obligations of the City in the form of Sewer Revenue Bonds to provide funds to pay the cost of capital improvements to the sewer system of the City, a revenue-producing undertaking of the City, such capital improvements constituting wastewater treatment facilities within the meaning of Title 62.1, Chapter 22, Section 62.1-224, of the Code of Virginia, 1950;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG, VIRGINIA:

SECTION 1. Pursuant to Chapter 26 of Title 15.2 of the Code of Virginia, 1950, the same being the Public Finance Act of 1991, and the Charter of the City, for the purpose of providing funds to pay the cost of capital improvements to the sewer system of the City, a revenue-producing undertaking of the City, such capital improvements constituting wastewater treatment facilities within the meaning of Title 62.1, Chapter 22, Section 62.1-224, of the Code of Virginia, 1950, there are authorized to be issued not to exceed Ten Million Five Hundred Thousand Dollars (\$10,500,000 principal amount of revenue bonds of the City to be designated “City of Lynchburg, Virginia, Sewer Revenue Bonds” (the “Bonds”). The Bonds shall bear the series designation “Series 2006” or such other series designation as shall be determined by the City Manager or the Deputy City Manager.

SECTION 2. The Bonds shall be issued to the Virginia Resources Authority ("VRA") as administrator of the Virginia Water Facilities Revolving Fund (the "Fund"), pursuant to the terms, conditions and provisions of, and to evidence the borrowing to be made by the City from VRA under, a Commitment Letter, dated April 6, 2006 (the "Commitment Letter"), from VRA to the City, a copy of which is filed with the minutes of the meeting at which this Resolution is being adopted, and a Financing Agreement (the "Financing Agreement"), by and between VRA, as administrator of the Fund, and the City, as the Borrower thereunder, such Financing Agreement to be in substantially the form presented to and filed with the minutes of the meeting of this Council at which this Resolution is being adopted. The form of the Financing Agreement and the terms, conditions and provisions thereof are hereby approved by this Council, and the City Manager or the Deputy City Manager is hereby authorized and directed to execute and deliver to VRA a Financing Agreement in such form, together with such changes as the City Manager or the Deputy City Manager executing the same shall approve upon the advice of counsel (including the City Attorney and Bond Counsel to the City), such approval to be conclusively evidenced by the execution and delivery thereof by the City Manager or the Deputy City Manager. In accordance with the terms, conditions and provisions of the Commitment Letter and the Financing Agreement, as the same may be amended from time to time, the Bonds shall have a term of not exceeding the term provided for in the Financing Agreement as executed, shall bear interest at the rate of zero per centum (0%) per annum and shall mature on such dates (*provided* that the final maturity date of the Bonds shall not be later than thirty-five (35) years after the dated date of the Bonds) and in such principal amounts as shall be specified in the Financing Agreement and the form of the Bond attached thereto as Exhibit A.

SECTION 3. The revenues of the sewer system of the City are irrevocably pledged to the punctual payment of the principal of the Bonds as the same become due and payable, and the Bonds shall be secured solely by and payable solely from such revenues. The Bonds shall be secured on a parity basis with the City's "Existing Parity Bonds" set forth at Appendix F to the Financing Agreement.

The City Council hereby covenants with and for the benefit of the registered owners of the Bonds that so long as any Bond shall remain outstanding the rates, rents, fees or other charges for the services and facilities furnished by, or for the use of, or in connection with the revenue-producing undertaking of the City consisting of the sewer system of the City shall be fixed and maintained at the level that will produce sufficient revenue in each year to satisfy the rate covenants set forth in the Financing Agreement, to pay the cost of operation and administration of such sewer system, the cost of insurance against loss by injury to persons or property and the principal of the Bonds when due and payable and to provide reserves for such purposes.

SECTION 4. The Bonds shall be executed, for and on behalf of the City, by the manual or facsimile signature of the Mayor or the Vice Mayor of the City and shall have the corporate seal of the City impressed thereon, attested by the manual signature of the Clerk of Council of the City, and shall be authenticated with the manual or facsimile signature of the Director of Financial Services or the Interim Director of Financial Services of the City .

The Bonds shall be in substantially the form set forth as Exhibit A to the definitive form of the Financing Agreement.

The Director of Financial Services and, in the absence of a Director of Financial Services, the Interim Director of Financial Services are hereby appointed as the Registrar and Paying Agent for the Bonds.

SECTION 5. The City Manager, the Deputy City Manager, the Director of Financial Services, the Interim Director of Financial Services, the City Attorney and other appropriate officers and employees of the City shall take all actions as shall be necessary to carry out the provisions of this Resolution.

SECTION 6. All resolutions in conflict herewith are, to the extent of such conflict, repealed. This Resolution shall constitute the "Local Resolution" as such term is defined in Section 1.1 of the Financing Agreement.

SECTION 7. The Clerk of Council is hereby directed to file a copy of the Resolution, certified by such Clerk of Council to be a true and correct copy hereof, with the Circuit Court of the City.

SECTION 8. The members of the Council and all officers, employees and agents of the City are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

SECTION 9. This Resolution shall take effect upon its adoption.

Adopted:

Certified: \_\_\_\_\_  
Clerk of Council

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